Co-operative Societies in the State.

14. SRIMATI T. NARAYANI AMMA (*Nominated*): Will the Government be pleased to state:

(*a*) the number of women's Co-operative Societies in the State and the number of women in the Co-operative movement at the end of 1108;

(*b*) the number of Honorary Organisers at the end of 1108;

(*c*) the number of Co-operative Inspectors at the end of the said period, and

(*d*) the number of ladies among (*b*) and (*c*)?

MR. T. C. THOMMEN (*Ag. Secretary to Government*): (*a*) Number of societies 5. The information regarding the number of women in the Co-operative movement is not available for 1108.

(*b*) 20.

(*c*) 27.

(*d*) Nil.

LEGISLATIVE BUSINESS.

DEPUTY PRESIDENT: We will now proceed to Legislative business.

THE TRAVANCORE CIVIL COURTS' POWERS AMENDMENT BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce the Travancore Civil Courts' Powers Amendment Bill. The Bill has been published in the Gazette with a Statement of Objects and Reasons, and I move that the Bill be read in the Assembly.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

MR. S. J. NAIR (*Nedumangad*): May I know from the member whether any Civil Courts' Regulation exists in Travancore?

DEPUTY PRESIDENT: You are out of order.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I shall briefly explain the principles involved in the Bill. "Law's Delays" has been a long standing cry in this State. The Legislature of the country also animadverted on it for a long time. Sir, about 3 years ago, Government appointed a commission to enquire into the "Law's Delays" and suggest remedies. The Commissioner appointed was a retired High Court Judge of eminence. He had been in all the grades of Judiciary, as Munsiff, District Judge and High Court Judge and has experience of the Judicial Administration of the country in all its aspects. He was also a legal practitioner once. The Commissioner submitted his report containing a number of proposals. They were all considered by the High Court and, in substance, most of the proposals of the Law's Delays Commissioner have been agreed to.

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[Mr. Kayalam Paramesvaran Pillai.]

Amongst the proposals made by the Law's Delays Commissioner for facilitating the expeditious disposal of civil suits, are the enhancement of the Ordinary and Small Cause jurisdictions of the Munsiffs' Courts and the Appellate jurisdiction of the District Courts as also a provision for a preliminary scrutiny of second appeals filed in the High Court. The High Court have agreed to these proposals generally and have recommended legislation for the following purpose, namely :—

(1) to raise the ordinary jurisdiction of the Munsiffs from Rs. 2,000 to Rs. 2,500 ;

(2) to raise the Small Cause jurisdiction of the Munsiffs from Rs. 100 to Rs. 200 ;

(3) to raise the appellate jurisdiction of the District Court from Rs. 1,000 to Rs. 2,500, that is to say, to make the District Court the final appellate Court in respect of all suits decided by the Munsiffs ;

(4) to invest the District Courts with an appellate "Small Cause" jurisdiction up to a limit of Rs. 500, that is to say, to make final the decisions of the District Courts passed in appeals against the decisions of Munsiffs in original suits (of a "Small Causes" nature) of the value of Rs. 500 or less ; and

(5) to provide for a preliminary hearing, by a single judge of the High Court, of all second appeals, for the purpose of determining whether they are *prima facie* permissible in law, in other words, to institute an "Admission Court" for second appeals.

The principle involved in the Bill is one that has been proposed by the Law's Delays Commissioner and assented to by the High Court with a few slight modifications. It is the High Court's proposals that are embodied in this Bill.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : May I know whether the right of first appeals to the High Court, which is provided for in the Law's Delays report, is taken away ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I will come to that. The Law's Delays Commissioner proposed that all appeals up to a value of Rs. 2,000 should lie in the District Court. The High Court add that all appeals up to a value of Rs. 2,500 should lie to the District Court. That is to say that all appeals against Munsiff's decisions should lie in the District Court. I believe there is a good deal to say in support of the proposal of the High Court. It has been made clear by the investigation of the Law's Delays Commissioner, which has received the support of the High Court, that the High Court is not able to keep abreast of the number of cases filed coming before them every year. The High Court stands in need of relief so far as the number of cases filed therein is concerned. It is only fair, and that has to be accepted by one and all the members here, that the High Court must be given some relief. Similarly, the District Courts also stand in need of relief to some extent. The same applies to Munsiff's Courts also. I know that there is a feeling of considerable opposition in some quarters of this House in regard to

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of the amendments proposed. But it seems to me that the general principle, namely, to devise some measures to expedite the disposal of suits will be accepted.

MR. K. A. NARAYANA PILLAI (*Todupuzha* cum *Devicolam*): May I know whether the appointment of two more Judges in the High Court would be sufficient to clear up the arrears?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may be sufficient.

MR. K. A. NARAYANA PILLAI (*Todupuzha* cum *Devicolam*): Will that be not some relief to them?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is no doubt about that. If you want, you can have four more Judges.

But as matters stand at present, if you want the High Court to keep abreast of the work coming up for disposal this Amendment Bill seems to be the best. It has the full approval of the High Court. Government also concur with them. By the introduction of such a measure, as a whole there will be a corresponding decrease of work in District Courts.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Is it the intention of the main Bill to give relief to the High Court and not to the courts lower down?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): By means of this Amendment Bill, every court has some change of work. But as to how far it will result in appreciable diminution of work depends on other considerations too.

MR. N. ABDUR RAHIMAN SAHIB (*Nominated*): Could not the appointment of the seventh Judge afford some relief?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Maybe.

But we want some permanent arrangement to be made.

MR. S. J. NAIR (*Nedumangad*): May I know whether, by establishing new Village Panchayat Unions in various parts of the State, work in courts cannot be minimised?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It will be of no use.

MR. EDAVANATT S. PADMANABHA MENON (*Shertala I*): May I know what is the Government's view. Why not the Munsiffs be given some more work?

DEPUTY PRESIDENT: I disallow that because we are dealing with the Bill and Government's view on that particular question does not count.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Will the member be in a position to say the extent to which the District Judges and Munsiffs will get relief to their work at present and the extent t which additional work would be given them as a consequence of this proposal?

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : It has been given by the Law's Delays Commissioner in his report in the place dealing with his proposals. But some changes have been made therein by the High Court. But the principle is the same.

MR. K. R. ELENKATH (*Kalkulam I*) : In passing this Amendment Bill, will there be any necessity for establishing additional District Courts ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : It is easier to have a few more District Judges, if it comes to that.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : How is it much easier ?

MR. K. R. ELENKATH (*Kalkulam I*) : Is it not a costly arrangement ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : District Judges are cheaper than High Court Judges. But I do not go into all that now.

Sir, as I said, I shall not go into the details of the report, because the report covers over 400 pages or so. I hope every non-official member interested in this measure has gone through it carefully and would give his warm support to this Bill. I am glad to think in this connection that there are in the House to-day two gentlemen who have been in the High Court Bench for a pretty long time. I trust that they will speak on this Bill and will extend their support to it.

DEPUTY PRESIDENT : May I call the Law Member's attention to the fact that the Law's Delays Report being a prolix document, it will be very difficult for members to pitch upon particular items for criticism. It is better the Law Member tells the House the salient points of recommendations of the Law's Delays Committee and the views of the High Court thereon bearing on the point.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I have no objection to explain the report in the manner indicated. But my only fear is that the time at my disposal is only short.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Sir, I rise to oppose the principle of the Bill that has been introduced for the consideration of this House. The object of this piece of legislation is stated to be one for avoiding the law's delays that are now experienced in this State and the Law Member has behind him the support of the Law's Delays Commissioner's Report and the opinions of the High Court Judges. I think that this present Bill is mainly intended to reduce the expenditure of the Government for the Judicial Department of the State. If we examine the main provisions of the Bill, we find that, after this Bill becomes law, the administration of justice in this country will be less efficient than it is at present.

First of all, the Bill proposes to increase the small cause jurisdiction of the Munsiff from Rs. 100 to Rs. 200. The Government have been always trying to increase the small cause jurisdiction of the

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Munsiff for the last thirty or thirty-five years and whenever that proposal was brought before the Legislature of the country, there has been some opposition, and a very legitimate opposition, and sometimes the Government had to drop their Bill in the middle. The disadvantages that the litigants and the general public in this country are now feeling owing to the summary manner in which the small cause suits are disposed of by the Munsifts must be taken into consideration, when Government come forward with such a proposal. The learned Commissioner who has submitted the report himself says that the majority of opinion was against increasing the small cause jurisdiction.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Did they use the word 'majority'?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): At page 490 of the Law's Delays Commissioner's Report, it is stated—

> "There is, however, a large volume of public opinion against such a general enhancement. In view of the fact that a body of well—informed opinion is against a general enhancement of small cause jurisdiction, such a measure is not recommended for the time being".

And, later on, he says that, if the Government are going to appoint the best Munsiffs in the District Court centres, they may be invested with small cause jurisdiction up to Rs. 200. An officer whose main duty was to find out the means to avoid law's delays makes a recommendation of this sort with great hesitation and with sufficient precaution.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will the member accept that recommendation?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I do not accept it and I am not bound to accept it. Sir, I would just draw the attention of the members on this side of the House to a Full Bench ruling reported in the first volume of the Travancore Law Times at page 610.

DEPUTY PRESIDENT: You do not object to the other members also listening?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): No. There the present learned Chief Justice writes a dissenting judgment in which he states clearly how much hardship would be caused to the general public in this country if the Munsiffs have only to write in their judgment the points for determination and the decision thereon. Anyhow, they are bound to act according to the law of the land. They can only interpret it and so even the High Court Judges find it rather difficult to interfere with the decisions of the Munsiffs in small cause suits. They could interfere with such decisions only under certain restrictions. The average wealth of a Travancorean is very low and sometimes he will have to stake the whole of his earnings in a small cause suit. So I am strongly of opinion that the principles embodied in the Bill with regard to the enhancement of the small cause jurisdiction need not be countenanced by this House.

After thus reducing the work of the Munsiffs, this Bill wants to give them some work by enhancing the original jurisdiction of the Munsiffs from Rs. 2,000 to Rs. 2,500. The learned Law's Delays Commissioner says that, if the Munsiffs could dispose of suits up to

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[Mr. A. S. Damodaran Asan.]

Rs. 2,000, he does not find any reason why it could not be enhanced by Rs. 500. Sir, if that argument is carried on, we can give unlimited original jurisdiction to the Munsiffs in this land. Because, we can always go on adding Rs. 500 to a particular figure and say that the addition of Rs. 500 is only a small addition. I do not fully agree with another reason adduced by the learned Law's Delays Commissioner for enhancing the original jurisdiction, that reason being that the Munsiffs at present recruited are much more efficient than those who were administering the law previously. Anyhow, I think Rs. 2,000 and more is a very big sum for anybody, except probably high-paid officers in this country, and the public have the right of getting their rights of over the value of Rs. 2,000, adjudicated upon by a District Judge. If the Government concede that the High Court Judges are more efficient than the District Court Judges and that the District Court Judges are more efficient than the Munsiffs, have they not to admit that by transferring the suits between Rs. 2,000 and Rs. 2,500 in value to the Munsiffs, the efficiency of the administration of justice will be impaired?

The next point is with regard to the appeals from suits between Rs. 1,000 and Rs. 2,500 in value. Now, the litigants have a right of their appeals being heard by two Judges of the highest court in the land. The Bill proposes to transfer the appellate jurisdiction in such cases to the District Judges. If the District Judge agrees with the Munsiff, the party loses the right of his case being heard by the High Court. Sir, this is a hard provision. Hearing a case by two Judges is a right which is sure to give some satisfaction to the litigant public. I think the only object, as far as I could see, in introducing this Bill is to reduce the expenditure. Do the Government want to make a profit by selling justice, I ask? Now, by the sale of court fee stamps and from other items of income under the head "Administration of Justice", the Government are getting about Rs. 19 lakhs. They are spending only Rs. 12 lakhs and thus the Government are now making a profit of Rs. 7 lakhs by selling justice.

DEPUTY PRESIDENT: Mr. Asan, you mean by the expression selling justice, providing facilities for the administration of justice? I am putting it to clear a doubt that I personally feel. 'Sale of justice' is an expression which means more things. You do not mean it in any other sense?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): If it is used in any other sense, it is not justice that is sold. That is injustice.

MR. PACODE A. NARAYANA PILLAI (*Vilavancode*): May I know whether the member has used the expression in the sense in which it is used in the 'Magna Carta'?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I do not know anything about it.

DEPUTY PRESIDENT: The first question should be whether the member has read the Magna Carta Further we do not say, the Magna Carta. You may proceed, Mr. Asan.

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MR. A. S. DAMODARAN ASAN (*Mavelikara*) : So there is a profit of seven lakhs under "Administration of Justice", and I think the Government should have reduced the rates of *ad valorem* fee and other fees and seen that they do not realise anything more than what is absolutely necessary for the administration of justice in this country. Now, they want to reduce the expenditure still further. It is not justified. What I am just suggesting is that the Government should remember that the trust of the general public in the Government depends upon the efficient administration of justice in the land. And if they want to do anything which will impair that efficiency, I may assure the Government that the trust that is now reposed in them will also be proportionately reduced. I believe that the Government will take into consideration all these facts and that the Law Member will withdraw the Bill.

MR. EDAVANATT S. PADMANABHA MENON (*Shertala I*): Sir, I rise to support the principle of the Bill, namely, that some amendment in the Civil Courts Regulation is necessary, but I do so with very large reservations. The Amendment Bill has to undergo radical changes before this side of the House can accept it. On an anxious consideration of the whole question, I think that some changes are necessary, because the people at large in Travancore are feeling strongly on the Law's delays. There has been a Law's Delays Commission and the report of the Commission has been for some time before the public. The highest tribunal in the land, the High Court, has considered its proposals and the Government has also anxiously considered the various views, and as a result, the present Bill has been presented to us for deliberation. The sole aim of Government as well as of the Law's Delays Commission and of the High Court was to find out some speedy way so that this proverbial law's delays in Travancore may be lessened and matters expedited. Under such circumstances, it is our duty and it is only fair to the Government that we give our anxious consideration to the Bill. But, as I have already submitted, radical changes are necessary before we could accept the Bill. Rs. 200 is not a small amount to a Travancorean. Small cause suits are decided by the Munsiffs in a summary fashion and the law allows that. Even then it necessitates a detailed enquiry in some of its important stages and there is also delay in the disposal of small cause suits.

As in civil cases, adjournment is applied for in small cause suits also and granted ; there is admission of document, there is posting of cases from day to day and arguments are also at times elaborately heard in small cause suits. In a country where the smallest coin is 1/16 of a chuckram—a cash—my submission is that this amount of Rs. 200 is a substantial amount to an average Travancorean. So to increase the jurisdiction of small cause cases is a question on which there is considerable feeling among the public. As Mr. Damodaran Asan remarked, there is also a strong feeling against taking away the benefit that is accruing at present to the litigant, namely, the benefit of having the appeals heard by two Judges of the highest tribunal in the land.

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[Mr. Edavanatt S. Padmanabha Menon.]

To take away that right given by Statute and substitute the right of hearing of the appeal by a single Judge, namely, the District Judge, is an invasion of the public right which we see in the Amendment Bill. To be fair to the public, I must state that there is an unfortunate impression throughout the State that everything is not right in the present recruitment to the judiciary; and with certain exceptions, the average level of the efficiency of the present day recruited Munsiffs is below the expected level; and as such the people at large feel that no enhancement of the jurisdiction of the Munsiffs will be conducive to public interests.

There is also a difference of opinion whether Rs. 2,000 jurisdiction of the Munsiffs should be enhanced to Rs. 2,500. As a practising Vakil, I know and other practising Vakils also might know, that litigants always feel anxious when there are important questions of law involved to artificially enhance the valuation of the suit slightly above Rs. 2,000 just to take away the suit from the jurisdiction of the Munsiff and get it admitted into the District Court, so that they can be sure of a more efficient and better justice. That is the present day impression. So, I feel strongly that, even if this kind of additional jurisdiction of Munsiffs is to be adopted, it should be confined only, as the Law's Delays Commissioner recommends, to select well-merited and efficient Munsiffs and should not be accepted as a general principle throughout the country. Of course, the Law Member may say that these are matters of detail that may be referred to the Select Committee. But I feel that some of these things might go even counter to the main idea of the Bill so that, if the Law Member is amenable to the idea that drastic changes almost on all Sections as presently brought may be made possible, that the Government will leave to the Committee a clean slate, this side of the House is also anxious along with the Government to help to solve the law's delays problem of speeding up justice. I support the principle of the Bill, and the Bill may be referred to a Select Committee.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): It is unfortunate that this draft Bill seeks to remedy the great evil of law's delays by this piece-meal legislation. I think no effective cure for the law's delays can be attempted in fairness to the recommendations made by the Law's Delays Commissioner, if his scheme is not implemented by legislation on a comprehensive scale. Sir, for example, much of the edge of our criticism would have been blunted if Government had taken the care to lay down the principles of recruitment to the various officers of the judiciary as suggested by the Law's Delays Commissioner. He makes wholesome and healthy suggestions with regard to the recruitment, which are unexceptionable and which would have gone a great way in making it unnecessary for us to stress many points which we are compelled under the present circumstances to bring before the notice of this House and Government. That is one aspect of the matter

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Another thing is, I for one do not think that these measures are going really to alleviate the law's delays considerably, because, as has been pointed out by the Law's Delays Commissioner himself by quoting the opinion of the Civil Justice Committee, improvements in methods, though they may be of vital importance, cannot by themselves be a cure for the law's delays. We find these are all mere improvements. As long as there are arrears, accumulated in courts, the very fact of the existence of the arrears will be a powerful influence to delay the work in the courts and to make the work inefficient. That has been pointed out very forcibly, by the Law's Delays Commissioner, by quoting the observations of the Civil Justice Committee, which, as extracted by the Law's Delays Commissioner on page 94 of the Laws Delays Committee Report, reads—

> "Improvements in methods are of vital importance. We can suggest improvements, but we are convinced that, where the arrears are unmanageable, improvement in methods can only palliate. It cannot cure. It is patent that when a court has pending work which will occupy it for something between one year or two years and even more, new-comers have faint hopes. When there is enough work pending at the end of 1924, to occupy a subordinate Judge till the end of 1926, difficult contested suits instituted in 1925 have no chance of being decided before 1927. Whatever be the improvement in methods, improvement in methods alone cannot be expected in such circumstances to produce a satisfactory result even in a decade. Until this burden is removed, or apparently lightened, the prospect is gloomy. The existence of such arrears presents further a serious obstacle to improvement in method."

Then referring to the general effect of arrears in courts, the Law's Delays Commissioner says.

> "A chronic state of arrears of work in a court may cause delays in a variety of ways A large accumulation of old suits on which he can hope to produce but little impression, try as hard as he might, would damp the ardour of any officer, and prevent him from feeling a sense of responsibility for the state of the work in his court, which is at the foundation of efficiency and despatch. It also tends to engender in him a feeling of diffidence which may easily degenerate into one of listlessness or indifference, and would stand in the way of his taking that interest in, and acquiring that grip over, the file in his court, which is essential to methodical and expeditious work. As his attention would naturally be concentrated on the older suits on his file, he may not have sufficient time to bestow on the later arrivals. He cannot be seriously blamed, therefore, if he fails to take a real interest in new suits which he knows, will be more or less long-lived and would in all probability be decided not by him, but by one of his successors. And no useful purpose would be served by applying to them the methods prescribed by the Civil Procedure Code with a view to save time and expedite disposals. It would matter very little whether in a suit which has to wait about 2 or 3 years to take its turn for trial, the issues are settled as soon as the Written Statements are filed, or a year after, or whether they are posted one month hence or six months hence. Owing partly to this, and to the heavy file which weighs down his spirits and crushes out all initiative, the old methods continue, and the machinery of the court moves along the old grooves, which were exactly the conditions under which the arrears have been growing and thriving."

These are sufficient to show that a mere change in the methods of Administration of Justice, however necessary they may be, will not be a radical cure to the great disease of law's delays which has been

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[Mr. K. Kunjukrishna Pillai]

accumulating in the State for such a long time. Sir, addressing on the draft Bill generally so much, I wish now to go to the definite proposals as found in the draft Bill. We find we will have to take into account that these extraordinary powers of jurisdiction, extension of jurisdiction and other things are going to be entrusted to the Munsiffs whose work has been reviewed in the Civil Administration Report of 1107 M. E. by Government thus : —

"The total number of suits for disposal and the number disposed of in the Munsiffs' Courts rose from 92,622 and 65,009 respectively, in 1106, to 98,857 and 66,995 respectively, in 1107. The arrears also rose from 27,613 at the end of 1106 to 31,862 at the end of 1107. The disposals of contested ordinary suits and contested small causes fell from 12,309 and 4,492, respectively in 1106 to 11,543 and 4,129, respectively in 1107. The number of suits pending for more than two years showed a further rise, being 7,045 against 6,789 in 1106, 5,966 in 1105 and 4,947 in the year previous. There was also a rise in the average duration of contested ordinary suits from 518 days in 1106 to 538 days in 1107."

This is the opinion of Government about the work of the present day Munsiffs which ought to be carefully borne in mind before the House allows any such drastic changes of jurisdiction. Government says—

"Government are constrained to observe that the work of the Munsiffs has been deteriorating and they look to the High Court to take the necessary action with a view to improve the situation."

With regard to the work of the District Judges, they say thus :

"Government regret that they are not able to record satisfaction of the work of the District and Session Judges."

These two observations, I think, the House will do well to consider very seriously before they allow any enhancement of jurisdiction to the Judicial officers. Sir, somehow to get rid of delay by any means should not be the objective of sound and healthy legislation. I would also like to point out, what amount of confidence the litigant—

MR. A. EASWARA PILLAI (*Kottarakara*): May I know whether the member can give any other means to cure law's delays ?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Yes. I can, and I have already suggested. If the member had been listening to me when I said that these piece-meal methods of dealing with law's delays are no cure to the disease and that the various suggestions recommended by the Law's Delays Commissioner have to be taken into consideration comprehensively—

DEPUTY PRESIDENT: You need not repeat what you have said, Mr. Kunjukrishna Pillai.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Sir, with regard to the small cause jurisdiction, Mr. Damodaran Asan pointed out a deviation that the draft Bill goes even further from the recommendation of the Law's Delays Commissioner. The Law's Delays Commissioner suggested that the pecuniary jurisdiction of small causes can be

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extended in the case of experienced Munsiffs and restricted it like that. He very rightly respected the volume of non-official opinion on that point. But the Law Member does not seem to give any weight to it. I do not know whether the High Court recommended the extension of the jurisdiction as the Law Member proposes in his Bill. But we are disposed naturally, Sir, to give a lot of weight to the observations of the Law's Delays Commissioner, especially because it is so very reasonable. This is a right that has been very jealously guarded on previous occasions as well, and I do not see any reason, unless the Law Member is able to convince us that the Law's Delays Commissioner has been wrong in cautiously proceeding with it, why the House has not a right to question the Law Member as to the justification of the change from the Law'sDelaysCommissioner's recommendations that he proposes. Sir, the Law Member should not state that there is no change in principle from the recommendations which the Law's Delays Commissioner has made. There is change in principle, however small it may be. By this draft Bill, the right of appeal from the Munsiff's decisions to the High Court has been taken away. Even under the proposals of the Law's Delays Commissioner, at least in the case of appeals from Rs. 2,000 to 2,500, however small it may be, there was a right of appeal to the High Court and it is a very important thing, as has been pointed out on various other occasions by non-official members, when other proposals of a similar nature were discussed. It is very necessary for the High Court to see at first hand the nature of the work done by the Munsiffs, the subordinate judiciary. That is a powerful argument that applies with equal force even at the present day. But that is now denied. The District Court is perhaps in all cases the first Appellate Court in these matters. It is, from the point of view of the litigant, very hard, because he has to carry his litigation through two courts. I do not agree with the arguments of the Law's Delays Commissioner in this respect, because he says that if the appeal is directly to the District Court it would be cheaper for the litigant than it would be if the appeal lay to the High Court only. He obviously forgets the fact that, if there is the possibility of a second appeal, that will invariably be availed of, so that the first appeal in the District Court is mere wastage from the point of view of many litigants. Sir, to an average Travancorean Rs. 2,000 to 2,500 or even Rs. 1,000 to 1,500 is of great value, especially in these days when the value for money has increased very much more on account of the economic depression than it was at the time the Law's Delays Commissioner made his recommendations. Property which would have fetched a hundred rupees about two years ago will not fetch more than half of it now.

Sir, I think if I take up in detail section after section of this Bill, it will be necessary for me to criticise them all. I do not wish to take up the time of the House especially in view of the fact that many are very anxious to discuss the Report of the Education Reforms Committee.

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DEPUTY PRESIDENT: I may suggest that, in considering this measure, we must discuss it quite as much as it requires. Of course, the other matter may be borne in mind; all the same we should not proceed to another item without doing enough with regard to this.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I was feeling a sort of oppression on account of my responsibility to give time to the members who did not get a chance of speaking on the Statham Report.

In the circumstances, Sir, what I would suggest is that free amendment of this Bill must be allowed. My own opinion is that law's delays can be avoided only by devising some machinery to wipe out the arrears which have accumulated. There is no use in any attempt at piece-meal reform, if efficient and effective arrangements are made for wiping out the arrears. Then there may not be any necessity for this Bill. I would therefore suggest that the Law Member should withdraw this draft Bill and think of introducing a reform which will wipe out the arrears; and then if it is found necessary, he may introduce some Bill to facilitate the speedy disposal of cases. As it is, I do not think there will be any use in enacting a measure like the one now before the House.

MR. S J. NAIR (*Nedumangad*): Sir, it is difficult to accept this Bill as it has been presented to us. I do not know whether the Law Member was in order when he presented this Bill.

DEPUTY PRESIDENT: He was perfectly in order. (*Laughter.*)

MR. S. J. NAIR (*Nedumangad*): I doubted it, Sir, because there is at present no Civil Courts' Powers Regulation, no such enactment there exists today that stands in need of amendment. Sir, the Law Member seeks by this Bill to amend three Regulations. I pondered and pondered and I was puzzled as to why and how the Law Member has huddled up and muddled up three Regulations together in this enactment that he has now proposed. (*Laughter.*) The Travancore High Court Regulation, the Civil Courts Regulation and the Code of Civil Procedure are all sought to be amended by this piece of legislation.

The enhancement of the small cause jurisdiction of Munsiffs will work great hardship to the litigant public. Even the existing small cause jurisdiction works hardship to them on account of the indifference of the Munsiffs towards small cause cases and the absence of sufficient attention on their part to the disposal of these cases. In the present circumstances, the small cause jurisdiction of Munsiffs could not and shall not be enhanced. I would suggest that, if possible, it should be lowered. On the other hand, I quite appreciate the suggestion to enhance the original jurisdiction of Munsiffs from Rs. 2,000 to 2,500. That is a very good suggestion.

MR. K. C. ABRAHAM (*Kottayam II*): Does the member advocate the lowering of small cause jurisdiction in all courts in the State or only in particular courts?

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MR. S. J. NAIR (*Nedumangad*): All Munsiffs' Courts.

When we take into consideration the poverty of the people of the State and also the value of money, it is not at all advisable that the small cause jurisdiction is raised. On the other hand, it ought to be lowered. It is only if the Law Member would give an undertaking that this Bill would go to a Select Committee and necessary amendments will be made to it, that we can give our support to it.

MR POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): I am also inclined to support the principle of this Bill, the principle *viz.*, that some amendments of the existing Regulations which define the pecuniary jurisdiction of the courts are necessary in order to obviate the law's delays. When enhanced powers are sought to be given to our courts, it should be made with a view to provide the necessary safeguards to obviate the causes of delay now so pronounced in our courts. The only question for consideration at this stage is whether the proposed enactment is quite conducive for the purpose. I am of opinion that the proposed enhancement of the pecuniary jurisdiction of Munsiffs should not be allowed to become law. Sir, whatever legislation we may enact, the success or otherwise of such legislation depends almost entirely upon the capacity of the judicial officers who are to administer these enactments. I am sorry to state, Sir, that, with very few exceptions, the present day recruits to the judiciary are inefficient and are themselves responsible for aggravating delay in the disposal of cases. The litigant public have lost much of their confidence in the judiciary as a whole.

MR. A. EASWARA PILLAI (*Kottarakkara*): Are the judical officers purposely causing delay?

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): I am sorry to say, Sir, that, in some cases they purposely cause delay either due to their incapacity or indolence. And those of us who have had occasion to practise before some of the lower courts know, Sir, their method of disposal of suits, especially during the quarter months.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I ask whether the vakils also are not guilty of contributory negligence in this matter?

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): Yes, in some cases. What I wish to emphasise is that the proposed provision with regard to the raising of the pecuniary jurisdiction of the Munsiff, in small cause cases or in original civil suits, should not be allowed to become law. Whether we should accept the recommendations of the Law's Delays Commissioner or those of the High Court is a matter for the Select Committee to decide. As such, I think it is better that the Bill be referred to a Select Committee for suitable amendment on the lines indicated in this House.

MR. ANTONY GEORGE (*Nominated*): There is complaint from the general public that all is not well with our judiciary. There are many grounds for such complaint; but the main ground for such complaint is with regard to the inordinate delay in the disposal of suits. Whereas in

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[Mr. Antony George.]

British India and other places, ordinarily, suits are disposed of within one year, even in simple suits, our courts sometimes take 3 or 4 years for disposal. This complaint became so loud and insistent that Government at last appointed the Law's Delays Committee; and I am very glad to say that the Committee did their work very conscientiously. The Report that they have submitted contains very useful suggestions and recommendations. If the Government had taken immediate action and given effect to the Committee's recommendations in time, law's delays could have been controlled much earlier. But, on one plea or another, Government put off the matter. Now, they have come forward with this Bill which is based mainly on the recommendations of the Law's Delays Committee. If this Bill will in any way help to expedite the trial and disposal of suits, I think everybody ought to welcome this Bill. I think that, to some extent, this Bill will help to expedite the disposal of suits. The increase of small cause jurisdiction of Munsiffs to Rs. 200 will, to a considerable extent, hasten the disposal of suits. If the courts would only apply the summary procedure with regard to these suits, I am sure these suits would not drag on for more than 6 months at the most.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Has he any objection to the small cause jurisdiction of Munsiffs being raised to Rs. 500 ?

MR. ANTONY GEORGE (*Nominated*) : I am not now concerned with that ; the Bill does not provide for that.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Will that not expedite business further ?

MR. ANTONY GEORGE (*Nominated*) : I would have considered that question if the Bill had provided for that. There are too many suits ranging between Rs 100 and Rs. 200.

MR. K. C. ABRAHAM (*Kottayam II*) : May I ask whether there are not courts with small cause jurisdiction to the extent of Rs. 2,000 ?

MR. ANTONY GEORGE (*Nominated*) : I know that.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : What is the pay and status of the Judges who have small cause jurisdiction up to Rs. 2,000 ?

MR. ANTONY GEORGE (*Nominated*) : I have no objection to the status of our Munsiffs being raised.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : May I ask whether those judicial officers who have small cause jurisdiction up to Rs 2,000 are called 'Judges' or 'Munsiffs' ?

MR ANTONY GEORGE (*Nominated*) : They are called Small Cause Judges.

And then, Sir, in regard to the argument that for Travancore conditions, Rs. 200 is a big amount to be dealt with by courts in a summary manner, Rs. 200 is a big amount not only for Travancore. For the average man in any part of India, Rs. 200 is a big enough amount. We have to fix the limit somewhere ; and the limit now fixed is not so high as to cause any apprehension to the litigant public.

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But I would say that the litigant public would stand to gain by the adoption of this speedy and quick method of disposal with regard to the small cause suits.

As for the loss of the right of appeal to the High Court, it is not of much consequence either. The High Court has got revisional powers to remedy that defect.

With regard to the increase in jursidiction of the Munsiffs on the original side to Rs. 2,500, I think of course that it is not going to do such havoc as some of the members are afraid it will. Now they are trying suits of to Rs. 2,000, and by an addition of Rs. 500, these suits are not going to be more formidable or more complicated than they are already.

MR. M. K. MADHAVAN PILLAI (*Karunagapalli*) : ഇതുകൊണ്ടു ഡിസ്ട്രി ക്റ്റ് ജഡ്ജിമാരുടെ ജോലി കുറയുന്നതിനും മുൻസിഫന്മാരുടെ ജോലിക്കു ട്ടുന്നതിനും സംഗതിയാവുകയില്ലേ?

MR. ANTONY GEORGE (*Nominated*) : സംഗതിയായേക്കും.

The addition of Rs. 500 is not going to change the nature of the suits, nor is it going to make it so formidable or complicated as to be beyond the powers of these Munsiffs to try and dispose of. The ability and the legal acumen found sufficient for the decision of suits up to the value of Rs. 2,000 would certainly stand the strain of an additional Rs. 500.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : If the jurisdiction is raised to Rs. 2,500, will not suits for the removal of Trustees and Managers have to be tried by the District Munsiffs ?

MR. ANTONY GEORGE (*Nominated*) : By all means let them try those suits.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Are they not suits of a different character from those tried by the Munsiffs at present ?

MR. ANTONY GEORGE (*Nominated*) : The present Munsiffs are quite efficient for that purpose also.

With regard to the provision for appeal in respect of suits on the original side from the Munsiffs' Courts to the District Courts, it is only a quite sensible provision. Now these District Judges are found to sit in judgment over appeals in suits up to the value of Rs. 1,000 and I do not find any reason why they should not be allowed to decide cases up to Rs. 2,500 coming on appeal and the principles involved in such cases would also be practically the same. There is also the safeguard of a second appeal to the High Court.

Then there is the provision for an Admission Court and this will be of great help. The appointment of the seventh Judge, though much to the displeasure of this House, will go a great way to reduce these accumulations of cases in the High Court which have now become a feature. If a proper Admission Court is established, I am sure the accumulation will be brought down considerably. So this Bill is going to help materially in the expeditious disposal of the suits. I therefore support the general principle of the Bill.

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DEPUTY PRESIDENT: Mr. Changanachery Paramesvaran Pillai.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Sir, I did not wish to speak on this matter but, still, as my name has been mentioned by the Deputy President, I do not want to sit quiet. I am in a peculiarly delicate situation in regard to this particular measure, because in some other capacity I had to commit myself to a particular view. Although in my present capacity it is open to me to take a different view, still circumstances have not been such as to enable me to change the opinion once formed by me about this matter.

The object of this measure is to relieve the High Court and the District Courts of much of the congestion of work which they suffer from and to expedite the disposal of cases, especially, of arrears. I did not hear from any of the members who spoke before me that the present measure is not likely to give relief to the High Court at any rate. The measure is certainly intended to give relief to the High Court and in effect it will certainly give such relief because it will reduce the number of appeal cases on the file of the High Court every year. Similarly, in regard to the District Courts also, although there is the provision that all appeals from the Munsiff's Courts will lie to the District Courts, there are other provisions in the Bill which would give some measure of relief to the District and Sessions Courts as well. So far as the Munsiff's Courts are concerned, the provision that all suits above the value of Rs. 2,000 and up to Rs. 2,500 on the original side may be attended by the Munsiffs is likely to increase a little of their work. The general increase in the small cause jurisdiction of the Munsiffs will outweigh that increase and therefore it is likely that some amount of relief will be given even to the Munsiffs by this measure.

Two objections have been taken to this Bill, one is that a more comprehensive proposal should be made by the Government, apparently including all the proposals of the Law's Delays Officer for giving relief to and reducing the suits on the file of the courts. Another is the dissatisfaction felt by the members of this House in regard to the general capacity of the Judicial Officers of the State, especially of the Munsiffs.

In regard to the first objection, namely, that a more comprehensive scheme should be proposed, of course it will be very good if a more comprehensive scheme might be proposed. That scheme, I think, is contained in the Law's Delays Officer's report itself and that may be taken as a very comprehensive scheme for coping with the ever increasing file in the courts and for helping the speedy administration of justice. But in regard to legislation, it can be taken up only one after another as they have done in this case, and in this matter the Law Member has subjected himself to Mr. S. J. Nair's criticism that he has put into this Bill amendments to three different Regulations already. According to Mr. S. J. Nair, this Bill should itself have been divided into three different proposals, one for amending the High Court Regulation, another for amending the Civil Courts Regulation and another for amending the Civil Procedure Code, and therefore a full and comprehensive scheme is impossible so far as legislation is concerned.

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Next is the complaint about the recruitment of Judicial Officers and the general level of their capacity. Now, Sir, in regard to this matter I do not hold any brief for the Judicial Officers or for the Government in so far as the recruitment is concerned. But I may say, Sir, one thing, and that is it has been the practice of every generation to detract from the capacity of the officers of that particular generation. I have experience of this during the thirty-three years of my experience at the Bar and as a Judge. In every period there has been complaint about the capacity of the officers When I started practice the same objections were raised to recruitment and the same objections were raised in regard to the capacity of the Munsiffs. When the small cause jurisdiction of the Munsiffs was proposed to be raised from Rs. 50 to Rs. 100, the same objections were raised. So that, that is an objection which we generally raise whenever the raising of jurisdiction of Judicial Officers is brought before the Council. Of course, it cannot be said that every time the people are satisfied with the nature of the officers or the capacity of the officers appointed, but it so happens that, nevertheless, things somehow get on in a way. So far as the capacity of the Munsiffs is concerned, personally speaking, I am very much dissatisfied with the work of many Munsiffs. (Mr. Damodaran Asan: *Hear, hear*). But that does not mean that the average work of the Munsiffs is very bad. We have got very good Munsiffs, we have got indifferent Munsiffs and we have got very bad Munsiffs too. But on the average, they are as good, I should say, as they were thirty years ago or even better. If they can be entrusted with pecuniary jurisdiction up to Rs. 2,000 on the original side, I do not see any reason why they should not be given jurisdiction up to Rs. 2,500. Rs. 500 more does not make much difference in the nature of the suits they may have to try.

As regards the raising of the small cause jurisdiction of the Munsiffs, I think it will be better to give effect to the recommendation of the Law's Delays Commissioner, that is to say, not to give this power to all the Munsiffs indiscriminately, but to leave the discretion with the High Court of recommending which of the Munsiffs might be entrusted with this power and to invest those Munsiffs with that power.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): മുൻസിഫന്മാരെ സ്ഥലംമാറ്റുന്നഅവസരത്തിൽ പിന്നെയും കേസ്സുകളുടെ സ്വഭാവം മാറിവരികയില്ലേ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnatlur cum Pattanapuram*): Yes, this is not the first instance. Formerly also, when the small cause jurisdiction was raised from Rs. 50 to Rs. 100, all the Munsiffs were not given the same jurisdiction, but certain Munsiffs were selected for that purpose and, when you select, of course the incident referred to by my friend will occur, but that is inevitable and it does not matter very much. What the Law's Delays Officer recommends is that the Munsiffs in some of the District Court centres might be invested with this power. I think that might be done and the question of raising generally the small cause jurisdiction of the Munsiffs

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might be deferred to a later and more suitable occasion. But so far as it is concerned at present, I think it might be better to restrict it to the very best Munsiffs and the most experienced of them. That is all, Sir, I wish to say on this subject.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, the present proposal is an attempt, so far it goes, on the part of Government, to combat law's delays of which we hear so much. Whether this is the best step to be put forward or not, is not the question. Whether this will go any way at all towards the solution of the problem is the question that we have to consider. Viewed in that light we have got the opinion not only of the Law's Delays Officer in Travancore but also of the Civil Justice Committee in British India backed by the opinion of the High Court of Travancore and adopted by the Travancore Government now, that this is one contrivance to combat the question of law's delays. Therefore, I am of opinion that *in limine* we shall not be justified in rejecting this Bill. At the same time I have to make a few observations as to my position in the matter.

As for the administration of justice, rather the successful administration of justice, the main criterion is the confidence of the public in the work done by the judiciary. That is the test to be kept in view. In the present instance, therefore, how far public confidence may be maintained or secured in regard to the changes now proposed should be the issue for consideration. It may be that some of the Munsiffs will be able to do the work proposed to be assigned to them quite satisfactorily. But whether all the Munsiffs, if similarly empowered, would keep up public confidence is open to question. How the public would view the changes is a consideration which we cannot afford to ignore. Certain observations were made with respect to judicial officers, especially the Munsiffs, to the effect that they are as a class inefficient. That is probably, as my friend Mr. Changanachery Parameswaran Pillai put it, too sweeping a remark. It may be that some of them are not able to prepare their judgments in an appeal-proof way, or, as it is said, in such a way as to strengthen their judgments to withstand the battery at the appellate stage. It does not mean that they are corrupt officers. It may even be that their conclusions are correct. The appellate court looks at the result in its relation to the *modus operandi*, adherence to legal procedure and so forth. Some subordinate officers lose sight of these requirements. It does not follow barely from the number of reversals that any given officer cannot be entrusted with more serious work. At the same time, let me add that I have seen criticisms upon the Civil Justice Committee's report by a learned gentleman in British India in regard to the raising of pecuniary jurisdiction. One such criticism is this. In up-country centres it would be difficult to obtain proper legal advice such as to produce confidence when the interests involved become more serious. For example, in a place like Thodupuzha, if litigation arises about a property worth Rs. 2,500 involving intricate questions, it may be

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difficult to get local legal advisers of an assuring type. But in a place like Trivandrum, we get a number of able legal advisors.

MR. K. A. NARAYANA PILLAI (*Todupuzha* cum *Devicolam*): May I know whether the member had an opportunity of inspecting the Todupuzha Munsiff's Court?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): No, I had not.

MR. K. A. NARAYANA PILLAI (*Todupuzha* cum *Devicolam*): Does the member think that arrears in Todupuzha or in any other courts are due to want of proper legal advice?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Arrears are due to other causes also; to some extent, legal advice also contributes its share.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ശരിയായ തീർപ്പുണ്ടാകാത്തതു് ലീഗൽ അഡ്വൈസിന്റെ ദോഷമോ ജഡ്ജസ്സിന്റെ ദോഷമോ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May be due to both and other factors.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does not the member expect that graduates in law practising in the various District Court centres would proceed to the Munsiffs' Courts when the jurisdiction of the latter Courts are increased?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I am coming to that.

In the Calcutta Weekly Notes Vol. XXIX, it is pointed out by a contributor that the need for efficient legal advice grows with the rise in the pecuniary interests involved. When therefore the parties are not anxious on account of legal advice, an increase in pecuniary jurisdiction may be attempted but in places far out of the way where reliable legal advice is scarce or where libraries are not available, a rise in pecuniary jurisdiction will create trouble and lead to expenses on the part of the litigants. The Civil Justice Committee in British India, when they proposed raising the jurisdiction of Munsiffs to Rs. 5,000, were particular in pointing out the need of selecting proper Munsiffs to be entrusted with the higher pecuniary jurisdiction. I therefore agree with the critic quoted by me and suggest that here in Travancore also we have to be rather discreet in the first instance as regards the officers we want to invest with higher jurisdiction.

MR. S. J. NAIR (*Nedumangad*): May I know from the member how better Munsiffs can be selected?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): The proper authority is the High Court and the High Court can make a selection. If they would throw away communal and emotional considerations and make their minds to be guided by standards of efficiency and character, a of higher grade Munsiffs can be selected.

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MR. A. THANU PILLAI (*Trivandrum-Rural*): What will be the proportion of such Munsiffs now in service to the total number?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is a difficult question to answer just now. I have not thought of it.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ശരിയായ ലീഗൽ അഡൈ്വസ് ഉണ്ടായിരുന്നാലും ജഡ്ജിമാർ ശരിയായിരുന്നില്ലെങ്കിൽ ന്യായമായ തീർച്ചകിട്ടുമോ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is a question to which the answer is plain.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ഒരാളിന്റെ പ്രാക്ടിസിനെ പരിഗണിക്കാതെ വയസിനെമാത്രം നോക്കി മുൻസിപ്പായിട്ടും ജഡ്ജിയായിട്ടും നിയമിക്കുന്നതു ശരിയാണോ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): വയസ്സുമാത്രം നോക്കി മുൻസിപ്പായിട്ടും ജഡ്ജിയായിട്ടും നിയമിച്ചതായി ഞാൻ അറിഞ്ഞിട്ടില്ല.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ഇത്ര വയസ്സായെന്നയാളിനേ മുൻസിപ്പായിട്ടും ജഡ്ജിയായിട്ടും നിയമിക്കാൻ പാടുള്ളൂ എന്നൊരം ഉണ്ടല്ലൊ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): വയസ്സിന്റെ താരതമ്യമനുസരിച്ചു മാത്രമെ മുൻസിപ്പായും ജഡ്ജിയായും നിയമിക്കാവൂ എന്നോ മറ്റോ ഒരു തത്വമുള്ളതായിട്ടു ശ്രീമാൻ ടി. പി. വേലായുധൻ പിള്ള പറഞ്ഞതായിട്ടു ഞാൻ വിചാരിച്ചുപോയി.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it possible to select Munsiffs in this manner *i. e.*, having regard to the percentage of confirmations of their decisions?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is one consideration. That cannot be the sole criterion. Some Munsiffs have good reputation; some bad reputation. The learned judges of the High Court know that or should know that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): At the periodical inspection of the Munsiffs' Courts, if the learned Judge goes through the records of certain important cases, can he not know whether the Munsiff can be given enhanced jurisdiction?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is no doubt one process for a selection.

Then another question that has been raised is with respect to the appellate jurisdiction by investing the District Court with exclusive appellate jurisdiction over the work of the Munsiffs. I think it rather difficult to accept that suggestion. The necessity that the High

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should be kept in touch with the work carried on by the Munsiffs is obviously there and one method of giving an opportunity to the High Court to understand the work of the Munsiffs is to allow some appeals to the High Court. That is desirable in another respect also, as it will tend to cheapen the cost of justice. Every appeal from a Munsiff's decision will have to go, according to the Bill, to the intermediate District Court and then to the High Court. When they reach the High Court, many of the appeals would become lean under concurrent findings. Secondly it is always good if it is open to the litigant to secure the cheapest administration of justice before the best Judges available. Such a method as far as possible should be preferred. So if it is possible to get the High Court hear as many appeals as possible, that would be the best arrangement. No doubt, if we push it too far, we should considerably increase the judges of the High Court. That means money. Therefore a limit has to be drawn somewhere. This idea to invest the District Court with exclusive jurisdiction to hear appeals from the Munsiffs does not commend itself to me.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Do you favour any extension in the present appellate jurisdiction of District Judges?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Any considerable rise I am not quite in a position to accept. If above Rs. 1,000 appeals are admitted to the High Court, an intermediary appellate Court, like the District Court, may be left free to pursue its original work. If the Government are very particular that some relief should be given to the High Court, the upper limit of the appellate jurisdiction of the District Court may be fixed at Rs. 1,250 or so.

Then there is the question of raising the small cause jurisdiction. That seems to electrify the public to a considerable extent. No doubt, it has been pointed out that there are small cause courts elsewhere with very high jurisdiction. There also it is a question of public confidence and a sense of security in the officer concerned. The Officer who exercises such jurisdiction gets a higher pay than our High Court Judges. Let us consider further the question of Rs. 200 small cause jurisdiction. Rs. 200 is the minimum pay of a munsiff. So far as his pay is concerned, it is not a light amount. So far as ordinary people are concerned, Rs. 200 in the present circumstances is by no means a trifle. The economic condition of the people is such. So it is quite natural that people will feel much anxiety about the non-appealable summary judgments of Munsiffs in these cases. Appealability is the greatest check on waywardness. When that is removed, the play of erratic factors increases. So the advisability of raising the small cause jurisdiction to Rs. 200 requires further examination. The suggestion was made by the Law's Delays Committee at a time when economic depression was not so keen. So the difference in the circumstances also comes in for some consideration.

Then with regard to the efficiency of Munsiffs. The more the schoolmaster is abroad and the legal profession spreads, the less would

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[Mr. P. K. Narayana Pillai.]

be the estimate of efficiency. It is therefore quite possible that the public will not be inclined to over-estimate the capacity of officers. It is after all a comparative statement of public opinion in regard to the level of the bar viewed in relation to the capacity of an officer who presides over a court of law. Therefore much depends upon the method of recruitment which is at the root of the question of efficiency. The mechanical way of recruitment and promotion adopted by the High Court calls for some modification.

Modifications in appellate jurisdiction or the raising of small cause jurisdiction cannot give immediate relief to the courts because the suits already filed have an inherent right of appeal vested in them. At least for three or four years to come, no relief on the appellate side can be expected as the suits pending in the Munsiffs' Courts carry with them a right of appeal. Similarly it would take some time before the suits up to the value of Rs. 2,500 mature into the stage of appeals.

Therefore, while I am at one with some other friends on this side of the House that the Bill should not be dismissed at this stage, I request my learned friend Mr. Kayalam Parameswaran Pillai to be so good as to allow the members of the Select Committee a free hand in shaping the course of this Bill, on ascertaining as far as possible the views of the public, so that the public may have confidence in the modified system of judicial administration we propose to inaugurate.

DEPUTY PRESIDENT: If the House is agreeable, we shall go on till about 1·30, for about 15 minutes more than usual, and meet again at 2 so that the lunch interval need be only half an hour today.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Yes, Sir.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Yes, Sir.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Instead of cutting short the interval, we can rather sit a little later in the evening, Sir.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): We have only half-an-hour more for this business.

The House adjourned at 1·17 P. M. and re-assembled at 2 P. M.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): സർ, എന്റെ പ്രസംഗത്തിൽ വ്യക്തമാക്കുന്ന വ്യത്യസ്തങ്ങൾക്കധീനനായി ഈ ബില്ലിൽ അന്തർഭവിച്ചിട്ടുള്ള സാമാന്യതത്വങ്ങളോടുകൂടി ഞാൻ പൂർണ്ണമായി യോജിച്ചുകൊള്ളുന്നു. മുൻസീഫന്മാർക്കു സ്മാൾകോസു കേസുകളെ സംബന്ധിച്ചുള്ള അധികാരം നൂറുരൂപായിൽ നിന്നു ഇരുന്നൂറുരൂപാവരെ വർദ്ധിപ്പിക്കണമെന്നുള്ള അഭിപ്രായത്തോടുകൂടി ഞാൻ അശേഷം യോജിക്കുന്നില്ല. അതു ജനസാമാന്യത്തിനു വളരെ സങ്കടത്തിനു കാരണമായിതീരുന്നതാണ്. ഇപ്പോഴത്തെ സ്മാൾകോസു കേസുകളിൽ വിധി എഴുതുന്നതിന്റെ സ്വഭാവം കേവലം അപൂർണ്ണവും അവ്യക്ത

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വും തന്നിമിത്തം കക്ഷികൾക്കു സങ്കടകരവുമായിരിക്കുന്നതിനാൽ റിവിഷൻകൊടുത്തു അതിന്മേൽ തീർച്ച കല്പിക്കേണ്ടിവരുന്ന അവസരങ്ങളിൽ ഏതു തത്വത്തെ ആസ്പദമാക്കിയാണ് ആദ്യതീർച്ചയുണ്ടായിട്ടുള്ളതെന്നറിയുന്നതിനു യാതൊരു മാർഗ്ഗവും ഇല്ലാതിരിക്കുന്നു. സ്മാൾകാസുകേസുകളിൽ വാദി എഴുതേണ്ടരീതിയെ സംബന്ധിച്ചുള്ള സിവിൽ പ്രൊസീഡിയർ കോഡിലെ വ്യവസ്ഥയുടെ ദുഷ്യംകൊണ്ടാണ് ഈ വിധമുള്ള അനാശാസ്യഫലങ്ങൾക്കും പൊതുജനസങ്കടത്തിനും കാരണമാകുന്നത്. സ്മാൾകാസുജൂറിസ്ഡിക്ഷൻ വർദ്ധിപ്പിക്കേണ്ടതു അത്യാവശ്യമാണെന്നു തോന്നുന്നു എങ്കിൽ വിധി എഴുതുന്ന കാര്യത്തിൽ ഇപ്പോഴത്തെക്കാൾ കൂടുതൽ ശ്രദ്ധപതിപ്പിക്കണം കേസിൽ ഹാജരാക്കിയിട്ടുള്ള തെളിവുകളെ ശരിയായി വിമർശനംചെയ്യുന്നകാരണത്താൽ എന്തിനെ ആസ്പദമാക്കിയാണ് ഒരു നിർദ്ദിഷ്ടമായ അഭിപ്രായരൂപീകരണം ഉണ്ടായതെന്നു സ്പഷ്ടമായിഅറിയുന്നതിനു പര്യാപ്തമായവിധം ജഡ്ജ്മെൻറു സ്പഷ്ടമായി എഴുതുകയും ഈ വിധത്തിൽ മാത്രമെ ജഡ്ജമെൻറു എഴുതാവൂ എന്നു സിവിൽപ്രൊസീഡിയർ കോഡിൽ അവശ്യംവേണ്ട ഭേദഗതിചെയ്കയും ചെയ്യേണ്ടതാണ്. അങ്ങിനെ ചെയ്താൽ അധികാരം വർദ്ധിപ്പിക്കുന്നതുകൊണ്ടു തരക്കേടില്ല.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): മിസ്റ്റർ വേലായുധൻപിള്ളനിർദ്ദേശിക്കുന്ന വ്യത്യാസം വരുത്തുമ്പോൾ എന്തുഭേദഗതിയാണ് ഉണ്ടാകുന്നതെന്ന് അറിയാമോ?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ചില സംഗതികളിൽ അങ്ങിനെ വ്യത്യാസം വരുമായിരിക്കാം.

മുൻസിഫന്മാർക്കു ൫൪൦൦ രൂപാവരെ സലയുള്ള കേസുകൾ വിസ്തരിക്കുന്നതിന് അധികാരംകൊടുക്കുന്നതുകൊണ്ടു പൊതുജനങ്ങൾക്കു യാതൊരുദ്ദേശ്യവും ഉണ്ടാകാനില്ലെന്നാണു ഞാൻ പൂർണ്ണമായി വിശ്വസിക്കുന്നതു. ൨,൦൦൦ രൂപാവരെ സലയുള്ളകേസുകൾ വിസ്തരിക്കുന്നതിനു ഒരു മുൻസിഫിനു അധികാരംകൊടുക്കാമെങ്കിൽ ൫൪൦൦ രൂപാ വരെ സലയുള്ള കേസുകൾവിസ്തരിക്കുന്നതിനു അധികാരം ആ മുൻസിഫിനു കൊടുത്തുകൂടാ എന്നു പറയുന്നതിന്റെ അർത്ഥം മനസ്സിലാകുന്നില്ല.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): മൂവായിരം രൂപാ സലയുള്ള കേസ് വിസ്തരിക്കുന്നതിന് അധികാരം കൊടുക്കുന്നതുകൊണ്ടു തരക്കേടുണ്ടോ?

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MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ഒരു തരക്കേടുമില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): എത്രരൂപാവരെ സലയുള്ള കേസുകൾ വിസ്തരിക്കാൻ അധികാരംകൊടുത്താൽ തരക്കേടുണ്ടെന്ന പറയാമോ?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): അതിനെപ്പറ്റി എന്റെ പ്രസംഗത്തിനുശേഷം പറയാം.

കേസിന്റെ സലയുടെ സ്വഭാവം അനുസരിച്ചല്ല കേസിൽ അന്തർഭവിക്കുന്ന വാദമുഖങ്ങളുടെ ഗൌരവം സ്ഥിതിചെയ്യുന്നത്. രണ്ടായിരത്തിരൂപാവരെ സലയുള്ള കേസിൽ അന്തർഭവിച്ചിരിക്കുന്ന ഗൌരവതരങ്ങളായ വാദമുഖങ്ങളുംതന്നെയായിരിക്കും, സാമാന്യേന ൨,൫൦൦രൂപ സലയുള്ള കേസുകൾക്കും ഉള്ളത്. അതിനു വ്യത്യസ്തമായിവരുന്നതു വളരെ അപൂർവമാണ്. അതുകൊണ്ടു സല ൨,൫൦൦രൂപാവരെ ആക്കുന്നതുകൊണ്ട് തകരാറു ഒന്നുംതന്നെ വരാനില്ല.

൫,൫൦൦ രൂപായിൽ കൂടുതൽ സലയുള്ളകേസുകൾ വിസ്തരിക്കുന്നത് ഡിസ്ട്രിക്ട് കോടതിയിലെ സെക്കൻറ് ജഡ്ജിയാണ്. നാല്പതു വയസ്സിനു താഴെയുള്ള ഒരു ഹൈക്കോടതിവക്കീലിനെയാണ് ഇപ്പോൾ ബാറിൽനിന്നു സെക്കൻറുജഡ്ജിയായി നിയമിച്ചുവരുന്നത്. ഇതു വളരെ അക്ഷേപാർഹമായ റിക്രൂട്ട്മെൻറാണ്. വയസ്സിന്റെ ക്ലിപ്തതയും ഹൈക്കോടതിവക്കീലും ആയിരിക്കണമെന്നല്ലാതെ ആ ആളിനു് എത്രത്തോളം പ്രാക്ടീസ് ഉണ്ടായിരുന്നുഎന്നോ നിയമപരിജ്ഞാനവും ലോകപരിചയവും മനസ്സിലാക്കി തൻനിമിത്തമുള്ള പ്രായോഗിക പരിജ്ഞാനം എത്രയുണ്ടായിരുന്നു എന്നോ ഉള്ള സംഗതികളെപ്പറ്റി ഹൈക്കോടതി ശരിയായവിധത്തിൽ പരിഗണിക്കുന്നില്ല. നാല്പതുവയസ്സിനുതാഴെയായി ഹൈക്കോടതിയിൽ പ്രാക്ടീസ്ചെയ്തിരുന്ന ഒരാളിനെ സെക്കൻറുജഡ്ജിയാക്കുമ്പോൾ എത്ര സലയുള്ളകേസുകളും വിസ്തരിക്കാമെന്നുള്ള അധികാരംകൊടുക്കുകയാണെങ്കിൽ ൨,൫൦൦ രൂപാവരെ സലയുള്ള കേസുകൾ വിസ്തരിക്കുന്നതിനു് ഒരു മുൻസിഫിനു് എന്തുകൊണ്ടു അധികാരം കൊടുത്തുകൂടാ.

MR. N. E. VARUGHESE (*Thiruvalla I*): വയസ്സുമാത്രംനോക്കി നിയമപരിജ്ഞാനവും മറ്റുയോഗ്യതകളും ഇല്ലാത്ത ആരെയെങ്കിലും അങ്ങിനെ നിയമിച്ചിട്ടുണ്ടോ?

MR. T. P. VALAYUDHAN PILLAI (*Thiruvalla III*) വ്യക്തിപരമായ എന്തെങ്കിലും സമാധാനം പറയണമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല.

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MR: A. EASWARA PLLLAI (*Kottarakara*): ഒരു ജഡ്ജിയുടെ പ്രാപ്തി ബാറിൽഉണ്ടായിരുന്ന പ്രാക ടീസിന്റെ കൂടുതലിനെ അനുസരിച്ചാണോ നിർണ്ണയിക്കുന്നത്?

MR. T. P. VELAYUDHAN PILLAI (*Thiruvalla III*) ഒരു ജഡ്ജിയുടെ പ്രാപ തി ഭൂരിഭാഗവും ആ ആളിനു ബാറിൽഉണ്ടായിരുന്ന പ്രാക്ടീസും അതിന്നനുരൂപമായ മറ്റുസൽഗുണങ്ങളും അനുസരിച്ചാണു് നിണ്ണയിക്കുന്നതു്.

MR. A. EASWARA PILLAI (*Kottarakara*) : വക്കീലിന്റെയും ജഡ്ജിയുടേയും ജോലിയുടെ സ്വഭാവം ഒരുപോലെയാണോ?

MR. T.P. VELAYUDHAN PILLAI (*Thiruvalla III*) സാമാന്യമായിഎല്ലാവക്കും അറിവുള്ള സംഗതിയാകയാൽ അതിനു സമാധാനം പറയണമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. ഒരു മുൻസിഫ് ൨൫൦൦ രൂപാവരെ സ്വയുള്ള കേസുകൾ വിസ്തരിച്ചുവിധിക്കുന്നതിൽ ആക്ഷേപംഉണ്ടെങ്കിൽ ആക്ഷേപം ഉള്ള ഏതെങ്കിലും കക്ഷിക്കു വിധിയിന്മേൽ അപ്പീൽ കൊടുക്കാവുന്നതാണു്. അതുകൊണ്ടും ൨൫൦൦ രൂപാസ്വയുള്ള കേസുവിസ്തരിക്കുന്നതിനു മുൻസിഫിനു അധികാരം കൊടുക്കണമെന്നു ഈ ബില്ലിൽ നിശ്ചയിച്ചിരിക്കുന്നതു ഒരിക്കലും ആക്ഷേപകരമല്ല. മൻസിഫ് കോടതിവിധിയിന്മേലുള്ള എല്ലാ അപ്പീലുകളും ഡിസ്ട്രിക്ട് കോടതിയിൽ കൊടുക്കണമെന്നു പറയുന്നുണ്ടു്. എന്നാൽ ആയിരംരൂപായിൽ കൂടുതൽ സ്വയുള്ള കേസുകൾ നേരിട്ടു ഹൈക്കോടതിയിൽ അപ്പീൽ കൊടുക്കുന്ന ഇപ്പോഴത്തെ നയംതന്നെ തുടർന്നുകൊണ്ടുപോകേണ്ടതു. അതു ആവശ്യമാണു്. അതിനു വ്യത്യാസം വരുത്തണമെങ്കിൽ ബില്ലിൽ ചില ഭേദഗതി ചെയ്യേണ്ടതു അത്യാവശ്യമാണു. അഡമിഷൻ കോടതി ഇപ്പോൾ കപസ്റ്റ്യൻഅഫ് ഫാക റ്റ്മാത്രമേ പര്യാലോചനാവിഷയമായി എടുക്കുന്നുള്ളു. ആയിരം രൂപായിൽ കൂടുതൽ സ്വയുള്ള കേസുകളെ സംബന്ധിച്ചെങ്കിലും അഡ്മിഷൻകോടതി കപസ്റ്റ്യൻ അഫ് ഫാക്റ്റും കപസ റ്റ്യൻ അഫ് ലായുംകൂടി പര്യാലോചനക്കു വിഷയമാക്കേണ്ടതാണു്. എന്നാൽ സങ്കടമുള്ള കക്ഷികൾക്കെല്ലാം അപ്പീൽകൊടുക്കാവുന്നതാണു്. അതിനാൽ ആയിരംരൂപാക്കു മേൽ സ്വയുള്ള കേസുകളുടെ അപ്പീൽകൂടി ഡിസ്ട്രിക്റ്റുകോടതിയിൽ കൊടുക്കണമെന്നുകൂടി പുതുനനിയമത്താൽ ഭേദഗതിചെയ്യണമെന്നുണ്ടെങ്കിൽ കപസ്റ്റ്യൻ അഫ് ലാ മാത്രം പര്യാലോചനവിഷയമാക്കാതെ കപസ്റ്റ്യൻ അഫ് ലായും ഫാക റ്റുംകൂടി പര്യാലോചനവിഷയമായി പരിഗണിച്ചു ഇത്തരം കേസുകളിലുണ്ടാകുന്ന തീർപ്പുകളിന്മേലുള്ള എല്ലാ അ

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[Mr. T. P. Velayudhan Pillai]

പ്പീലുകളും അഡ്മിഷൻകോടതി സ്വീകരിക്കേണ്ടതാണെന്നുകൂടി പ്രത്യേക്ഷമായി വ്യവസ്ഥയുണ്ടായിരിക്കേണ്ടതാണ്. സകലകേസുകളും ഹൈക്കോടതിയിൽ അപ്പീൽകൊടുക്കാവുന്നതാണ്, അപ്പീൽ സ്വീകരിക്കുന്നതു് അഡ്മിഷൻകോടതിയുടെ യുക്തമാണ്. മുഴുവൻഫീസ്സും അടച്ചതിനുശേഷം അഡ്മിഷൻകോടതി കപ്സ്റ്റ്യൻ അഫ് ഫാക്റ്റു മാത്രമേനോക്കുന്നുള്ളൂ. കപ്സ്റ്റ്യൻ അഫ്ലാ ഇല്ല എന്നകാരണം പറഞ്ഞു അപ്പീൽ സ്വീകരിക്കാതെ തള്ളിക്കളയുന്നുവെങ്കിൽ അങ്ങിനെയുള്ള അവസരത്തിൽ മുഴുവൻഫീസും അടച്ചിട്ടുള്ളവർക്കു വളരെ സങ്കടമുണ്ടാകുന്നതാണ്. അതിനാൽ അഡ്മിഷൻകോടതിക്കു അപ്പീൽ സ്വീകാര്യയോഗ്യമാണെന്നു അഭിപ്രായപ്പെടുന്നതുവരെ കോട്ടഫീസ് മുഴുവനും അടക്കാതെ ഒരു പെറിഷൻഫീസ്മാത്രം സ്വീകരിക്കുകയും അപ്പീൽ സ്വീകരിച്ചശേഷം മാത്രം മുഴുവൻഫീസുംഅടയ്ക്കുകയും ചെയ്യുന്നതുക്ക വിധത്തിൽ ഈ ബില്ലിൽ ഒരു പ്രൊവിഷൻ ഉണ്ടാക്കേണ്ടതു അത്യാവശ്യമാണ്. ഈ വ്യത്യാസങ്ങളോടുകൂടി ഈ ബില്ലിന്റെ സാമാന്യതത്വങ്ങളോടു ഞാൻ പൂർണ്ണമായി യോജിക്കുന്നു.

MR. K. C. ABRAHAM (*Kottayam II*): I support the principle of this Bill, and that most unreservedly. But, what looms very large in such matters is the fact that we are of an extremely conservative bend of mind due to our legal training and the legal profession that we follow. We are used to ask for precedents or authority for every case that we are asked to argue; we follow what has existed in the past and do not easily think of changes. The discussion here on this measure may, to a very large extent, be commented upon as being conservative. There are some facts which we have to consider very carefully; and, in my view, they are all admitted facts. First of all, Government have stated, in their Report for 1107, that the work of the Munsiffs has been steadily deteriorating. Secondly, there is the fact that the congestion in the District Courts is every day on the increase; and Government observe that they are not able to record their satisfaction of the work of the District Courts. Thirdly, we find that the files even in the Honourable High Court in no way indicate a tendency to reduction. By this Bill, we are now invited to effect some reforms in the law itself and thereby try to work out the arrears and to expedite the disposal of suits to the relief of the litigants. We all agree that some changes are necessary. There was a time when I too was under the impression that there was nothing wrong in the law and that the defect lay in the mode of administering it, in the machinery for the administration of justice. In fact we were under the impression that the whole blame lay on the personnel of the judiciary. Even now, we have had the criticism that the Munsiffs had no business to try small cause suits.

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if they were original suits. I have even heard it said that it was the fault of the Legislature to have laid down that in small cause suits only the facts need be determined and findings given. I ask, what else does a "small cause" suit mean? Unless we accept that, there cannot be any distinction between small cause suits and original suits. It has been urged that the enlargement of the small cause jurisdiction of Rs. 200 is inordinate and not quite in the interests of proper administration of justice nor in keeping with the economic condition in Travancore. I have also listened to the suggestion that certain Munsiffs might be entrusted with such enlarged small cause jurisdiction without any hesitation. Therefore, the position seems to be that the raising of jurisdiction by itself is not objectionable but that competent persons must be appointed as judicial officers. Some people seem to be very anxious even to have incompetent and inefficient officers in order that the enhancement of jurisdiction may be legitimately opposed. I submit that there is absolutely no harm in the small cause jurisdiction of Munsiffs being raised to Rs. 200, and that we must have, as Munsiffs, persons who can be safely entrusted with such jurisdiction.

Coming to the question of recruitment to the judiciary, I am not in favour of any recruitment made to satisfy communal or cast craving I would like the Government to insist upon two principal aspects primarily, at least in judicial appointments, *viz.*, character first and efficiency next. (*Hear hear.*)

With regard to the proposal of enhancing the pecuniary jurisdiction of Munsiffs to Rs. 2,500, I can possibly find no objection to it; because, as I submitted at the very outset, we are too conservative in our attitude towards the judiciary, and we are ready to find every possible objection to any change. Likewise with regard to the raising of the appellate jurisdiction of the District Courts. I have heard that in the State of Mysore and in the jurisdictions in British India, first appeals do not generally lie to the High Court direct from the judgments of the Munsiffs.

DEPUTY PRESIDENT: You are saying this as a fact which you know and have not merely heard?

MR. K. C. ABRAHAM (*Kottayam II*): I have only heard it, because I have no direct experience in those jurisdictions, but I know as a matter of fact either from books or otherwise from those who have had experience, that they have absolutely no right of first appeal direct to the High Court from the judgments of the Munsiffs. I have heard some criticisms in this House that the High Court must retain some direct supervisory control over the judgments of the Munsiffs and that can be only when appeals are coming direct to them first. I do not know why the High Court could not make that supervision when the cases come before their Honours in second appeal. If in other States and jurisdictions that is possible, why it should not be possible in this State, I am at a loss to understand.

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[Mr. K. C. Abraham.]

With regard to the question of raising the appellate juridiction of the District Court to Rs. 500 in suits of a small cause nature, there can be absolutely no difficulty about that, because the efficiency of our Judicial Officers has considerably improved of late, according to me.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): What is the standard by which this efficiency is tested?

MR. K. C. ABRAHAM (*Kottayam II*): The reasonable standard of a sensible man.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether the standard of Government is unreasonable?

MR. K. C. ABRAHAM (*Kottayam II*): I am not competent to speak about it. Sir, I was submitting that the raising of the small cause jurisdiction to Rs. 500 in regard to the District Courts can be thoroughly supported on two grounds. Every man who feels himself poor will always have a craving for a right of appeal to the High Court or to have a judgment pronounced by the highest judicial tribunal. That is not what the larger interests of the administration of justice demand. It is always necessary that justice must be close and justice must be cheap. Now, most of the litigants know and vakils also know what the cost of going to the High Court is. Even in a small cause, I do not mean it in the technical sense of a small cause, but rather a small case, there is the charge of printing, paying for other things, the charge of engaging a vakil, etc. If the Judicial Officers of the subordinate courts are quite efficient to give a good judgment in a small case, I cannot understand why the jurisdiction should be denied to them. I think there must be a repose to perpetual litigation. That is one of the aims of law. So far as the interests of the public are concerned, the duty of the legislature is not only to provide for the wishes of the public, but also to educate the public to the extent that we require of them. Therefore, I support the principle of the Bill.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): I support the principle of the Bill as introduced by the learned Law Member. Some of the members took serious objection to raising the jurisdiction of the Munsiffs in small cause cases from Rs. 100 to Rs. 200. The present day Munsiffs are very inefficient and a few of the Munsiffs are incapable; and I believe some of them will never become capable. To invest such Munsiffs with summary jurisdiction up to Rs. 200 which is somewhat higher than the average earning of a Travancorean, is very undesirable, and cannot even be dreamt of. But a few of the Munsiffs, who are efficient and are of more than ten years' standing, may be selected so that such powers may be given to them. To invest the District Courts with the first appellate authority over the judgments of the Munsiffs in suits of the value of Rs. 1,000 to 2,500 is very detrimental. I cannot even think of it. It is about thirty-eight years since I have had the necessity of going to the Civil Courts and I had to be a party in several suits. I was never able to get a decree in my favour in the first court, except in one single suit. But I assure the

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members that I have succeeded in all my suits in the High Court, where two Judges took part in the hearing of such cases. So, the valuable right which the subjects of His Highness the Maha Raja of Travancore have of getting their suits heard and disposed of by two of the eminent and learned Judges of the High Court can never be taken away. Well, then, how are we to relieve the High Court of the arrears that have accumulated? Two more Judges or even four more Judges may be appointed in the High Court in order to relieve them of this arrear work. We are to lose for that, we the people of Travancore. We are to suffer the consequences of it Allowing the District Judges in the first instance to hear appeals of the value of Rs. 1,000 to Rs. 2,500 and then to have those suits brought up as special appeals, which may be thrown away by a single Judge, is a thing that I cannot even dream of. If the Civil Procedure Code is so amended as to make the High Court hear all suits in special appeal, whether on fact or on law, and if the High Court has power to hear all such suits as special appeals, I have no objection in investing the District Courts with the first appellate authority for all suits filed in the Munsiffs' Courts. If suits to the value of Rs. 1,000 to 2,500 are decided by District Judges concurring with the Munsiffs, how can the people hope to get any relief if the decrees are passed on fact? I remember a certain decision that findings may also be arrived at in several ways. In whatever way findings are arrived at, if the two Courts are of the same opinion on facts, though differing in arguments, even then it is a judgment on concurrent findings, and the Judges of the High Court cannot interfere in such suits. Such a provision cannot even be dreamt of. Now decisions in suits to the value of Rs. 500 of a small cause nature, passed by the District Judge, are to be deemed final. That also is very harmful to the subjects of His Highness the Maha Raja. So, I would request the Law Member to withdraw this Bill and to bring in another Bill so as to safeguard the interest of the subjects of the State and not the interest of the High Court Judges. If not, it will go against the interests of the subjects of the State, if the Bill is passed as it is.

DEPUTY PRESIDENT: So, you oppose the Bill?

MR. R. RAMAN PILLAI (*Changanachery cum Peermade II*): Yes, but I admit that the High Court should be given some relief.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I oppose the principle underlying this Bill. It is unsound. It is, if I may put it so, like treating the symptoms and not the disease. It is seen from the Statement of Objects and Reasons contained in the Bill and also it is seen from the speech of the learned Law Member that the main object of this Bill is to reduce law's delays. Sir, on account of the abnormal delay caused in our courts, the Government constituted a Commission to go into the whole question and a Report was submitted by the Commission. We find from the Report of the Commission that the causes of the law's delays are many. One important cause for the accumulation of work in courts as well as for law's delays is the steady increase

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[Mr. Pacode A. Narayana Pillai],

in the volume of litigation in our country. If we go into the history of litigation in Travancore during the past 50 years, we will find that from decade to decade the numbers have been doubling and sometimes the increase was three times as much as it was in the previous decade and for this steady increase in litigation, of course, there are many causes peculiar to our country.

In this connection, I would refer to a small passage contained in the Administration Report of the year 1045, in which that eminent statesman, Sir T. Madhava Rao, who was then the Dewan of Travancore, refers to the state of litigation in Travancore in these terms. An extract from that is given at page 24 of the Report of the Law's Delays Commission.

> "Taking the number of original suits instituted in the year at 18,600 and the population at 15,00,000, the proportion comes to one suit for every 80 of the population. A few reasons may be indicated for this circumstance. There is a good deal of wealth in the country furnishing matter for judicial controversy Landed property has arisen much in value both owing to natural causes and agrarian securities."

DEPUTY PRESIDENT: Please do not read long passages.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): He has also made this observation—

> "And increased intelligence makes good men more tenacious of their rights and bad men more litigious".

That is the observation made by that eminent statesman more than fifty years ago. There was a steady improvement in the wealth of the country. With regard to the intelligence of the people also, I do not think there was any decline. Of course, people here are very alive to their rights. They fight out all the differences of opinion in the courts of law and our benign Government have been following a policy by which litigants were given very many facilities to have their causes fought out in courts of law.

Then again, there are other causes for delay. One such cause is the accumulation of cases on the file of the various grades of courts. Another cause for the delay is the bad system followed by Government with regard to the recruitment of Judicial Officers. Another cause for delay is the defective system in the territorial jurisdiction of the courts.

For these various causes, the learned Commissioner has suggested so many remedies. If I remember right, the main remedy suggested by the Commissioner in the report to cope with this large volume of litigation is to open more courts. This is one of the main recommendations in the report. The Commissioner recommends that the tone of the judiciary should be improved. The system of recruitment should be improved. Again, with regard to territorial jurisdiction also, the Commissioner has recommended a readjustment. So we have in the report very many recommendations, but it is a surprise to me to find that, leaving out all the important recommendations, one of the recommendations, *viz.*, rearrangement in the pecuniary jurisdiction of

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the courts alone is considered. It is that that has now been pitched upon and incorporated in a Bill like this. My submission is, palliatives are always bad and this Bill is nothing less than a palliative. Well, Sir, if we want to see an improvement in the tone and efficiency of the judiciary and in the administration of justice, what we have to do is to read the report as a whole and to introduce comprehensive reforms, and not to introduce, as one of my friends observed some time ago, this sort of piece-meal legislation, which is always bad. Instead of improving the tone in the administration of justice, it will certainly work against that soundness and improvement which every one of us likes to have in the system of administration of justice.

Then again with regard to the specific proposals made in the Bill, I should be excused if I say that the increase in the pecuniary jurisdiction of Munsiffs is not at all safe. Several Munsiffs have recently been appointed and are working. But, of course, as one of the learned Judges in one of his judgments observed, this sum of Rs.100 or Rs. 200, in a large majority of cases, is all the wealth that a man has for his life. We are not to judge the standard of the poor litigant from the standpoint of officers drawing high salaries. We have to look at them from the standpoint of the ordinary man. An ordinary man's whole wealth may be involved in a small cause suit. A small cause suit is summarily disposed of without any detailed examination of witnesses or raising issues in the case. The judicial officer need not give the reasons for his conclusions in the judgment. If we can call it a trial, it is to say the least of it very dangerous, and not at all safe. So my humble suggestion is that the whole Bill, as it is now drafted, is unsound and we should not accept it and we should hold up this sort of legislation for some time to come till our affairs in the economic field and in other directions improve.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I shall not attempt any detailed reply to the discussion we had here on this Bill. There was a suggestion made by two or three on the other side of the House that they will be satisfied if these criticisms are considered and adequate remedy suggested by a Select Committee. I am certainly agreeable to the Select Committee and any improvement may be made in that Committee in the light of the suggestions made here today. I may, however, mention that most of the criticisms made on the floor of this House today were anticipated by the Law's Delays Commissioner and he has given his own view of the matter. He has come to the conclusion that some of these changes were suggested by many of the witnesses who gave evidence before him. In regard to the enhancement of original jurisdiction of the Munsiffs, for instance, the witnesses were unanimous. As for the appellate jurisdiction, many were for enhancing it even up to Rs. 3,000. I shall not however talk long over all these. Every one of the criticisms given here may be considered and sufficient improvements may

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[Mr. Kayalam Paramesvaran Pillai.]

be made in the Bill, as I believe that the principles are generally accepted.

DEPUTY PRESIDENT: Does the House agree to the principle of the Bill being accepted.

The House agreed.

The Secretary then read the title of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I move that the Bill be referred to a Select Committee consisting of:—

1. Deputy President.
2. Messrs. P. K. Narayana Pillai.
3. „ A. S. Damodaran Asan
4. „ K. C. Abraham
5. „ S. Krishna Panickar
6. „ S. Nilakanta Pillai
7. Messrs. S. J. Nair
8. „ Antony George
9. „ K. Padmanabhan
10. „ M. K. Janardhana Kamath.
11. „ K. Kunjukrishna Pillai.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

DEPUTY PRESIDENT: The motion is carried. The Committee will submit its report in four months.

We will now proceed to discuss the Report of the Statham Committee. Before Mr. Ramasubba Aiyar is called upon, I may mention that the rules as to time limit were suspended practically. Considering the fact that there is a large number of members desirous of speaking, I propose to allow 5 minutes normally to every member and I appeal to the good sense of the House to make the best use of that time. In exceptional cases, deviation from the rule, may, however, be made.

DEMANDS FOR SUPPLEMENTARY GRANDS (*Contd*)

EDUCATION

MR. T. P. RAMASUBBA AIYAR (*Nominated*): Sir, I was dealing the other day with the question of the transfer of departmental schools to private agencies. This is one of the recommendations in the Committee's Report. In regard to that, I was saying that none of the 19 municipalities in the State is now in a fit condition, financially or otherwise, to take up the management of the departmental English schools. In Travancore there are at present no local boards and it would take a long time before they can be formed and the handing over of the departmental schools to them can be thought of. Steps may however be taken to enact a law for the purpose. If it is considered that these departmental schools may be made over to the management of other private agencies, such agencies have not come forward so

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Appendix.

THE TRAVANCORE CIVIL COURTS' POWERS AMENDMENT BILL.

Whereas it is expedient to enhance the jurisdiction and powers of Courts of Civil Judicature in certain matters with a view to the expeditious disposal of suits; It is hereby enacted as follows,—

Short title and commencement.

I. (*a*) This Regulation may be called the Travancore Civil Courts' Powers (Amendment) Regulation, 110.....

(*b*) It shall come into force on.....

Amendment of Sections 12, 13, and 16, Civil Courts' Regulation 1084.

II. The Travancore Civil Courts' Regulation, 1084, shall be amended as mentioned hereinafter in the Section, namely:

(*a*) In Section 12, for the words "two thousand" the words "two thousand and five hundred" shall be substituted;

(*b*) In Section 13, for the words "one hundred" the words "two hundred" shall be substituted; and

(*c*) In Section 16, second paragraph, the following words shall be omitted, namely:—

"except when the amount or value of the subject matter of the suit exceeds rupees one thousand, in which case the appeal shall lie to the High Court,"

Amendment of Sections 7 and 17, High Court Regulation, 1099.

III. The Travancore High Court Regulation of 1099 shall be amended as mentioned hereinafter in this Section, namely:—

(*a*) In Section 7 after Clause (4), the following Clause shall be inserted, namely:—

(5) to hear and determine whether any second appeal preferred under the provisions of the Code of Civil Procedure, 1100 contravenes the provisions of Sections 80 and 80A thereof and if it does so contravene, either to dismiss the appeal or to pass any other order that is just and equitable in the circumstances of the case."

(*b*) In the Proviso to Section 7, after the word "application" the words "or second appeal" shall be inserted,

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(c) In Section 17, the following shall be added at the end, namely :—

"or by such officer of the High Court, and in such manner, as the High Court may, by order, determine from time to time."

IV. The Code of Civil Procedure, 1100, shall be amended as mentioned hereinafter in this Section, namely ;—

Insertion of new Section 80 A in the Code of Civil Procedure 1100.

After Section 80, the following Section shall be inserted, namely :—

"80A. Notwithstanding anything contained in Section 79, no second appeal shall lie in any suit relating to a subject-matter of a small causes nature when the amount or value of the subject-matter of the original suit does dot exceed five hundred rupees.

No second appeal in certain suits.

Explanation :—"Suit relating to a subject-matter of a small causes nature" means any suit of a nature not specified in Schedule II to the Travancore Civil Courts' Regulation, 1084."

STATEMENT OF OBJECTS AND REASONS.

Amongst the proposals made by the Law's Delays Commissioner for facilitating the expeditious disposal of Civil Suits are the enhancement of the Ordinary and Small Cause jurisdictions of the Munsiffs' Courts and the Appellate jurisdiction of the District Courts as also a provision for a preliminary scrutiny of second appeals filed in the High Court. The High Court have agreed to these proposals generally and have recommended legislation for the following purpose, namely ;—

"(1) to raise the ordinary jurisdiction of the Munsiffs from Rs. 2,000 to Rs. 2,500 ;

(2) to raise the Small Cause jurisdiction of the Munsiffs from Rs, 100 to Rs. 200 ;

(3) to raise the appellate jurisdiction of the District Courts from Rs. 1,000 to Rs. 2,500, that is to say, to make the District Court the first appellate Court in respect of all suits decided by the Munsiffs.

(4) to invest the District Courts with an appellate "Small Cause" jurisdiction up to a limit of Rs. 500, that is to say, to make final the decisions of the District Courts passed in appeals against the decisions of Munsiffs in original suits (of a "small causes" nature of the value of Rs, 500 or less ; and

(5) to provide for a preliminary hearing, by a single judge of the High Court, of all second appeals for the purpose of determing whether they are *prima facie* permissible in law, in other words, to institute an "Admission Court," for second appeals.

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Occasion has been taken by the High Court also to suggest that provision may be made for the attestation by some officer of the High Court, say, the Registrar, of the Rules and Circular Orders issued by them which have now to be signed by not less than three judges. This Bill is designed to carry out the above recommendations of the High Court; and appropriate amendments are proposed in respect of the Civil Courts Regulation, the High Court Regulation and the Code of Civil Procedure. The amendments in respect of the Civil Courts Regulation would enhance the ordinary jurisdiction of the Munsiffs from Rs. 2,000 to Rs. 2,500 and the small cause jurisdiction of the Munsiffs from Rs. 100 to Rs. 200 and make the District Court the first appellate Court in respect of all the decisions of the Munsiffs. The amendment in respect of the High Court Regulation provides for a single Judge of the High Court sitting as an "Admission Court" in respect of second appeals, and would also enable the High Court to issue their Rules and Circular Orders with the signature of some Officer of the High Court. The amendment in respect of the Code of Civil Procedure provides for the appellate "Small Cause" jurisdiction of the District Courts, that is to say, the amendment would make the appellate decisions of the District Courts final in suits of the nature cognisable as small cause suits, provided the value of the subject-matter of the original suit does not exceed Rs. 500.

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